



**MASHPEE ZONING BOARD OF APPEALS  
JULY 13, 2016  
MINUTES**

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, July 13, 2016, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, Ronald Bonvie, Dom DeBarros, Scott Goldstein, and Associate Members, Brad Pittsley and Norman J. Gould were present. Building Commissioner, Michael Mendoza was also present.

**PLEDGE OF ALLEGIANCE**

Jonathan Furbush announced that the meeting was being televised live on Mashpee TV. He also announced that the Board will be re-organizing their members for the upcoming year.

**CONTINUED HEARINGS**

**21 Wilsons Grove:** Owner, Cynthia T. D'Alessandro requests a Written Finding under Article V §174-17 of the Zoning Bylaws to construct a 5.4' x 8.25' addition on rear deck structure on property located in an R-3 Zoning District and within the Popponesset Overlay District, (Map 118 Parcel 95), Mashpee, MA. (*Continued from June 8, 2016 hearings at the request of the Board*).

Mr. David D'Alessandro returned to the Board to get approval for his deck addition project. At the last hearing, the Board requested a formal written approval letter from the Conservation Agent because the area is in a moderate flood plain. The existing deck is sitting on a cinder block foundation, and the applicant will be installing sono tubes for the new deck as required by the Building Department.

Chairman Furbush read the formal letter from Andrew McManus, Conservation Agent into the record. "*The proposed project at 21 Wilson's Grove will not require a conservation permit.*"

Mr. Bonvie made a motion to issue a Written Finding for the deck addition project. A **Certified Plot Plan:** Name: David D'Alessandro, Location: 21 Wilsons Grove, Mashpee, MA. Scale: 1" = 20', Date: 5/11/2016, Datum: NAVD 1988, Deed Reference: C: 16170E, Plan Reference: 11408-S & 6811-D, New England Land Survey, Professional Land Surveying, 25 Sutton Avenue, Oxford, MA 01540, Phone: (508) 987-0025, Fax: (508) 234-7723, Registry: Barnstable, \*We certify that the building(s) are within the special Flood Zone AE (EL 13 Feet) See Firm: 25001C0754J Dtd: 07/16/2014. Scale: 1" = 20'. File: 21 Wilsons Grove Mashpee.

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**Building Permit Plan:** Name: David D'Alessandro, Location: 21 Wilsons Grove, Mashpee, MA. Scale: 1" = 20', Date: 5/11/2016, Datum: NAVD 1988, Deed Reference: C: 16170E, Plan Reference: 11408-S & 6811-D, New England Land Survey, Professional Land Surveying, 25 Sutton Avenue, Oxford, MA 01540, Phone: (508) 987-0025, Fax: (508) 234-7723, Registry: Barnstable, \*We certify that the building(s) are within the special Flood Zone AE (EL 13 Feet) See Firm: 25001C0754J Dtd: 07/16/2014. Scale: 1" = 20'. File: 21 Wilsons Grove Mashpee. Depicts: Proposed Addition (5.4' x 8.25'). Also a Proposed Floor Plan: David D'Alessandro, Location: 21 Wilsons Grove, Mashpee, MA. Scale: 1" = 10', Date: 5/11/16, Depicting the Proposed Washer & Dryer, Existing Bedroom, Detail Scale 1" = 5', Note: All new construction will comply with building code standards including standards for 110 MPH wind zone. Also a Proposed Floor Support Plan, and Proposed Roof Plan. **The building plan and plot plan was revised with a date of 6/5/2016.**

**706 Old Barnstable Road:** Owner, Marc J. Kadis, and Dmitry Deych of Diamond Builders seeks reversal of the Building Commissioner's Decision to prohibit a bedroom use in an accessory structure under M.G.L. Chapter 40A §8 and §15, on property located in an R-5 Zoning District, (Map 79 Parcel 66), Mashpee, MA. *(Continued from June 22, 2016 hearings at the request of the Board).*

Attorney Kevin Kirrane returned to the Board as requested. He did not have any comments to add for the application.

Chairman Furbush said that he and Vice Chairman, Bill Blaisdell had a conference call with Town Counsel to discuss the application. He said they reviewed the dwelling detached descriptions on page 5 of the Zoning Bylaws, the accessory dwelling description on page 1, §174-25 A-1 detached dwelling page 27, §174-25 A-12 accessory dwelling, page 27, and §174-22, on page 16, and §174-46 OSID, page 93. He said after a lengthy discussion, Town Counsel agreed with the Building Commissioner, that in fact a bedroom outside the house is not allowed.

Mr. Kirrane said that his interpretation is that a bedroom outside of the house without any kitchen facilities constitutes a residential dwelling and that he understands the bylaw reference to the OSID. He also acknowledged the definition for accessory dwelling and that the accessory dwelling typically would have kitchen facilities.

Mr. Furbush said that the OSID would require 20 acres, and a special permit issued by the Planning Board. He said that it was concluded that the application would fall under §174-22, Compliance of Use Required. In other words, if it not listed in the Table, it's not allowed.

Mr. Blaisdell said that he reviewed the wording in detail and said that if it's not listed in the Table of Use it's not allowed.

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Mr. Kirrane concluded that his position is that a single-family residential use was designated in the by-law, and the use is located on this site notwithstanding maybe in more than one building is a single-family residential use. He said we agree to disagree and believes there is a specific reference to a single-family residential use and constitutes a single-family residential use, but apparently Town Counsel believes that it's a single-family residential use with an accessory dwelling.

Mr. Bonvie made a motion to approve the reversal of the Building Commissioner decision to prohibit a bedroom use in an accessory structure of Owner, Marc J. Kadis, and Dmitry Deych of Diamond Builders under M.G.L. Chapter 40A §8 and §15, on property located in an R-5 Zoning District, (Map 79 Parcel 66), Mashpee, MA. Mr. Blaisdell seconded. Mr. Furbush voted no, Mr. Blaisdell, voted no, Mr. Bonvie, voted no, Mr. Goldstein, voted no, and Mr. DeBarros, voted no. All members voted unanimously to deny the application of the Building Commissioner's appeal.

**43 Waterline Drive South:** Steven and Susan Bozkurtian request a Written Finding under §174-17 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R-3 Zoning District (Map 120 Parcel 148), Mashpee, MA. Owner of record: 43 Waterline LLC. (*Continued until August 10, 2016 hearings at the request of the attorney*).

Chairman Furbush read a letter from Attorney Kevin Kirrane's office requesting a continuance until August 10, 2016 until an Amended Order of Conditions is approved by the Conservation Commission.

Mr. Bonvie, made a motion to accept the letter of continuance for the application. Mr. Furbush seconded. All were in favor to accept the continuance until August 10, 2016.

### **NEW HEARINGS**

**67 Monahansett Road:** Owners, Jeanne M. Gallagher and Regina L. Lawson request a Written Finding under §174-17 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R-3 Zoning District and within the Popponesset Overlay District, (Map 123 Parcel 97), Mashpee, MA. (*Continued until September 14, 2016 hearings at the request of the Petitioner*).

Mr. Furbush read a letter from Millbrook Modular Homes, Petitioner, representing the application for the homeowners, requesting a continuance until September 14, 2016 pending conservation approval.

Mr. Bonvie made a motion to accept the request to extend their hearing until September 14, 2016. Mr. Blaisdell seconded. All were in favor.

Mr. Bonvie asked the Chairman if an applicant filed for this hearing, and someone other than the applicant asked for an extension could the Board be in a situation of an approval by default.

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The Chairman responded, in this case the applicant is the Petitioner, and was given approval by the homeowner to represent them. The Board will have to make a decision at the hearings on September 14, 2016, or may be extended further by written notice between the Petitioner and the Board.

Mary Ann Romero, Administrative Secretary mentioned to the Board that the Petitioner will need to revise their plans prior to their schedule hearings. The Board will determine if they require a new filing at the September 14, 2016 hearings.

Mr. Furbush said that all the information needs to be on their paper work. Mr. Blaisdell said that the Board will only hear what was published. If they are asking for something different, and it wasn't published, the Board cannot act upon it and they will need to refile.

Mr. Bonvie said to reach out to the applicant through email with the following phrase. "If there are deficiencies in the plan, and are included but not limited to" unless the Board comes up with other items.

### **OTHER BUSINESS**

#### **-Vote to Reorganize Board Member Appointments**

Mr. Gould asked the Chairman if he could comment. He said that he is impressed with the professionalism and knowledge of the present officers, and if able to make a motion, he would recommend that the Clerk cast one vote to the present officers of the Board.

Mr. Bonvie nominated Jonathan Furbush as Chairman, Mr. Blaisdell seconded. All were in favor. Mr. Furbush nominated Bill Blaisdell as Vice Chairman. Mr. Bonvie seconded. All were in favor. Mr. Blaisdell made a motion to nominate Mr. Ron Bonvie as Clerk, Mr. DeBarros seconded. All were in favor.

The Board voted unanimously to nominate and appoint Jonathan D. Furbush as Chairman, William A. Blaisdell as Vice Chairman and Ronald S. Bonvie as Clerk.

#### **-Approve June 22, 2016 Meeting Minutes**

Mr. Gould made a motion to approve the meeting minutes. Mr. Blaisdell seconded. All were in favor

Mr. DeBarros made a motion to adjourn. Mr. Blaisdell seconded. All were in favor. The meeting adjourned at 6:35 pm.

Respectfully submitted,

Mary Ann Romero  
Administrative Assistant  
Zoning Board of Appeals